



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

June 14, 2006

SUBJECT: **2006-0467:** Application located at **1386 Lewiston Drive** (near Cascade Dr.) in an R-1 (Low Density Residential) Zoning District.

Motion Variance from Sunnyvale Municipal Code section 19.48.020 for a new fence greater than three feet in the corner and driveway vision triangles.

REPORT IN BRIEF

Existing Site Conditions Single-family home

Surrounding Land Uses

North Single-family residential

South Single-family residential

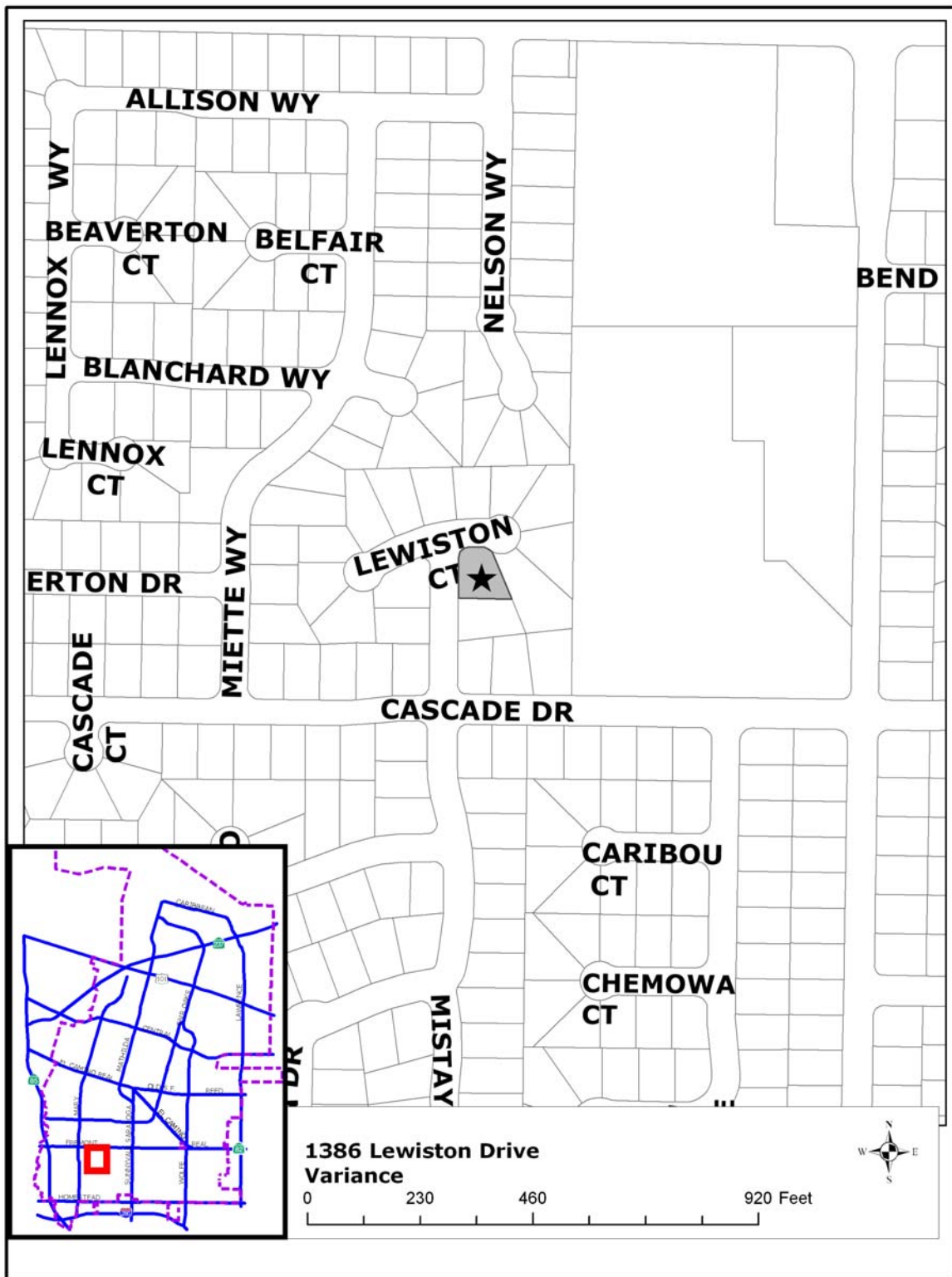
East Single-family residential

West Single-family residential

Issues Encroachment into the corner and driveway vision triangles

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Denial



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	Low Density Residential
Zoning District	R-1	Same	R-1
Lot Size (s.f.)	8,668	Same	8000 min.
No. of Units	1	Same	1 max.
Fence Height in the 40' Corner Vision Triangle			
★ • Fence	N/A	5'6"	3'
Fence Height in the 10' Driveway Vision Triangle			
★ • Fence	N/A	5'6"	3'

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS**Description of Proposed Project**

The applicant is proposing a 5'6" high fence into the corner and driveway vision triangles of his property. The fence is on the property line along Lewiston Drive and Courts, immediately adjacent to the back of the sidewalk. There is also a double gate proposed near the street corner, intended to allow access to the reducible front and rear yards.

As part of this application, the applicant is proposing to remove the 6' high wood fence that is currently located between the front and reducible front yards.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2002-0285	556 sf addition for new attached boat garage	Design Review/ Approved	4/16/2002
1998-0197	7' high fence in the reducible front yard	MPP/ Approved	8/14/1997

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes minor alterations to existing facilities.

Use: The fence is intended to provide privacy and security for the applicant as well as enhance the visual appearance of the front yard.

Design of the Fence: The fence height consists of approximately:

- 2' of brick/block masonry on the ground;
- 5' high masonry columns spaced every 7'6";
- 3'6" iron railings mounted/between the masonry features;

The fence will be iron railings only within the corner vision triangle areas. The height will be comparable in height to the mixed material portion of the fence. Attachment D shows a photo of the fence and gate.

The following Guidelines were considered in analysis of the project site design:

Design Policy or Guideline (Site Layout)	Comments
<i>3.11 (G) Landscaping Fencing along the front property lines and along side property lines within front yard setback areas should not exceed three feet in height.</i>	The applicant is proposing a fence of 5'6" in the front yard area.

Vision Triangle: Sunnyvale Municipal Code Section 19.34.060 requires that 40' vision triangles be maintained at all intersections and 10' driveway triangles be maintained clear of obstruction over 3' high. This is to promote safety and reduce the potential for accidents and injury by providing drivers a better view of pedestrian, bicycle, and vehicular traffic while approaching a corner.

The code requirement is rooted in traffic engineering practice and documented by the Institute of Traffic Engineers as well as the California Department of Transportation Highway Design Manual. The documentation states that for all intersections there must be an unobstructed sight distance in both directions on all approaches at an intersection. The sight triangles must be free of obstructions which might interfere with the driver's ability to see other vehicles, pedestrians or bicyclists approaching on the cross street and to ensure that vehicles have sufficient sight distance to make appropriate decisions on whether to slow, stop, or proceed through the intersection area.

Sunnyvale does not have a policy that would allow for a sliding scale or reduction in the required vision triangles. Some cities allow sight triangle encroachments based on maximum speed limits, number of affected housing units, fence design, etc. This type of flexibility is not available for City staff to utilize in the Sunnyvale Municipal Code.

Compliance with Development Standards/Guidelines: The proposed fence meets all the development standards except for the height requirement in the vision triangles.

Expected Impact on the Surroundings: Staff finds that the fence would not have a negative aesthetic impact on the neighborhood, due to its quality and design. Staff does not believe an open rot iron fence will create a fortress effect or overly enclosed front yard from a streetscape perspective.

Applicant's Justification: The applicant submitted a letter of justification with the following reasons for the project:

1. *Our home is located on the right side in a quiet cul-de-sac*
2. *The cars that are traveling in our street are not allowed to go fast as per the cul-de-sac speed limit*
3. *There are only 4 houses in the cul-de-sac of which all of them reviewed the plans and approved our proposed fence*
4. *The distance between the proposed fence to the street is 12 feet; therefore, there is sufficient line of sight for traffic as the cars can not make the right turn before physically passing the proposed fence (see pictures.*
5. *When looking at the Photoshop illustration (included with the Variance application), one can clearly see that there is complete visibility of the other side of the street.*
6. *The proposed fence is going to be a see through decorative metal (see attached plans)*
7. *There will be no supporting cement posts in the curvature area to further assure line of sight*
8. *The reason for the height of the fence is security & safety! We have a spa in our back yard and we do not want kids to be able to easily jump the fence when we are away and use our spa; we are mainly concerned about accidents and are trying to think ahead and prevent any possibility of such unfortunate event!!!*
9. *The proposed fence will enable us to demolish the existing wooden fence that is facing the front of Lewiston Dr. (from the house to the street); this will enhance & beautify the looks of the neighborhood and therefore raise everyone's property value*

Conclusion

Discussion: Staff acknowledges there are some circumstances at the subject property that would minimize most potential negative impacts the fence might have to safety in the area. These are as follows:

- Street intersection is a “T”, rather than a continuing street;
- The speed limit is the minimum in the City at 25mph;
- The average speed in the area is much less than the minimum, estimated at about 15mph;
- Lewiston Drive and Court are very wide streets;
- There only five homes fronting on the affected corner, so there are very low traffic volumes;
- The proposed fence is an open design, allowing visibility through the fence.

The difficulty in recommending approving the Variance request lies in two facts. The first: while the particulars of the property minimize potential safely impacts, they are not totally eliminated. Therefore, a safety impact, although minor, will be created. The second fact is this property is not a unique or extraordinary circumstance in Sunnyvale. There are many similar corner lot configuration in the City with a similar set of circumstances. Therefore, granting this Variance would require granting similar requests throughout the City.

Findings and General Plan Goals: In order to grant the Variance, three findings must be made (See Attachment A, Recommended Findings).

Staff cannot make the required Findings based on the justifications for the Variance. If the Hearing Officer can make the required findings, staff recommends the incorporation of the Conditions of Approval in Attachment B.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 21 notices mailed to adjacent property owners and residents of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website

Alternatives

1. Deny the Variance.
2. Approve the Variance with recommended Condition of Approval in Attachment B.
3. Approve Variance with modified Conditions.

Recommendation

Alternative 1.

Prepared by:

Steve Lynch
Project Planner

Reviewed by:

Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Applicant's Justifications
- D. Petition Letter from Applicant
- E. Letter from Neighbor
- F. Site and Architectural Plans

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

Staff cannot find that this property/use has exceptional or extraordinary circumstances. There are many similar corner lot configuration in the City with a similar set of circumstances.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

Staff finds that the fence would not have a negative aesthetic impact on the neighborhood, due to its quality and design. Staff does not believe an open rod iron fence will create a fortress effect or overly enclosed front yard from a streetscape perspective. The Traffic and Planning Divisions have reviewed the application and found that the particulars to the property do minimize potential safety impacts, but the impacts are not totally eliminated. Therefore, a safety impact, although minor, will be created.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Staff finds that the granting of a Variance would constitute a special privilege since other similar property owners have been denied similar requests.

Recommended Conditions of Approval - Variance

In addition to complying with all applicable City, County, State, and Federal Statutes, Codes, Ordinances and Resolutions, the Permittee expressly accepts and agrees to comply with the following Variance Modifications.

1. Obtain a Building Permit for the fence in this permit.
2. The Variance Permit for the use shall expire if the use is discontinued for a period of one year or more.
3. The Variance shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
4. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
5. A Stop sign must be installed at the expense of the applicant at the south east corner of the intersection of Lewiston Drive and Court.
6. The 6' wood fence between the front and rear yard shall be removed (not the 7' fence adjacent to Lewiston Court).
7. The fence design shall be open rot iron only; no masonry columns are permitted. A masonry base of 2' or less is permitted.
8. After installation, all landscaping shall thereafter be maintained in a neat, clean, and healthful condition.

Steve Lynch - 1386 Lewiston Drive proposed fence justification

ATTACHMENT C

Page 1 of 2

From: "Ron Sigura" <rsigura@comcast.net>
To: <slynch@ci.sunnyvale.ca.us>
Date: 6/7/2006 3:23 PM
Subject: 1386 Lewiston Drive proposed fence justification

Dear Steve,

I would like to add this note to my application and have the committee consider the following when making their decision:

1. Our home is located on the right side in a quiet cul-de-sac
2. The cars that are traveling in our street are not allowed to go fast as per the cul-de-sac speed limit
3. There are only 4 houses in the cul-de-sac of which all of them reviewed the plans and approved our proposed fence
4. The distance between the proposed fence to the street is 12 feet; therefore, there is sufficient line of sight for traffic as the cars can not make the right turn before physically passing the proposed fence (see pictures).
5. When looking at the Photoshop illustration (included with the Variance application), one can clearly see that there is complete visibility of the other side of the street.
6. The proposed fence is going to be a see through decorative metal (see attached plans)
7. There will be no supporting cement posts in the curvature area to further assure line of sight
8. The reason for the height of the fence is **security & safety!** We have a spa in our back yard and we do not want kids to be able to easily jump the fence when we are away and use our spa; **we are mainly concerned about accidents and are trying to think ahead and prevent any possibility of such unfortunate event!!!**
9. The proposed fence will enable us to demolish the existing wooden fence that is facing the front of Lewiston Dr. (from the house to the street); this will enhance & beautify the looks of the neighborhood and therefore raise everyone's property value

Thank you for your consideration.

Ronen & Laura Sigura

Laura & Ronen Sigura
1386 Lewiston Drive
Sunnyvale CA. 94087
Phone: 408-733-4248
Mobile: 408-315-1600

Ronen & Laura Sigura
1386 Lewiston Drive,
Sunnyvale CA 94087
Phone: 408-733-4248

Variance Justification

1.
 - a. Our property is located in a Cul-De-Sac with out much traffic
 - b. Our property is located in a Cul-De-Sac with mainly traffic (our neighbors)
 - c. Our property is located in a Cul-De-Sac with a very slow speed limit
 - d. Our property is located in a Cul-De-Sac with a round corner that is not limiting or obstructing the view for traffic as the driver needs to be past our property line before he/she can consider making a right turn (see attached illustration/picture).
2.
 - a. Our suggested fence will beautify the neighborhood and increase property value (see plans)
 - b. Our Neighbors reviewed our plans and are in support of the face (see **attached picture with signatures**)
3.
 - a. Our suggested fence is a see through fence that will not be limiting or obstructing the view for traffic as the driver needs to be past our property line before he/she can consider making a right turn (see attached illustration/picture).

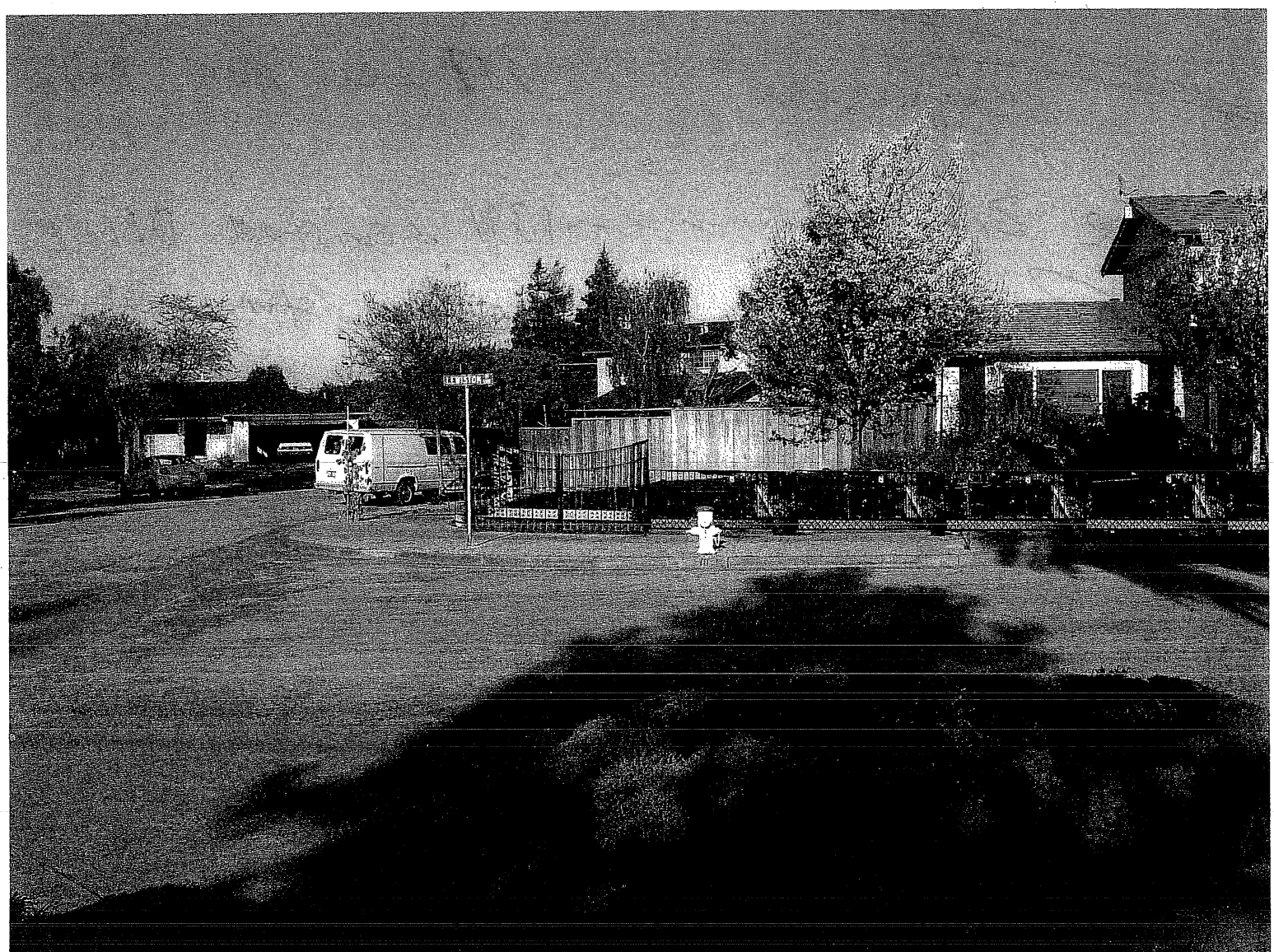
Sincerely,

Ronen & Laura Sigura

We the undersigned, certify that we live in Lewiston Ct. May 1, 2006
 We further certify that we reviewed the Fence Plans for 1386 Lewiston Dr.
 and we approve its construction.

ATTACHMENT D
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MICHAEL MARBLEWANT Michael Marblew - 764 Lewiston Ct
Tim Anderson - 758 Lewiston Ct



Maryorie Erbes Chatfield 761 Lewiston Ct.
 Kim Runk - - - - - 765 Lewiston Ct
 Sandra Goss - - - - - 775 Lewiston Ct
~~Bob Goss~~ - - - - - 771 Lewiston Ct
Bob Goss - - - - - 779 Lewiston Ct
 Ann M. - - - - - 785 Lewiston Ct

See
 Back Side.

Don

789 Lewiston ct

ATTACHMENT D

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Alardell

793 Lewiston ct

John H

786 Lewiston ct

Law
M. Nagnibzadeh

1387 Lewiston Drive

Arge Ziklik

1391 Lewiston Drive

Ann Carter

1390 Lewiston Drive

Don

789 Lewiston ct

Alardell

793 Lewiston ct

John H

786 Lewiston ct

Law
M. Nagnibzadeh

1387 Lewiston Drive

Arge Ziklik

1391 Lewiston Drive

Ann Carter

1390 Lewiston Drive

To Whom It May Concern:

May 24, 2006

From: Peter and Kathleen Tobias

Re: Request for fence permit at 1386 Lewiston Drive, Sunnyvale, CA

We are long time residents who have lived at 771 Lewiston Court, Sunnyvale, for 36 years. Our concern is regarding a request for a permit with a variance for a five foot six inch fence to be installed at the home of Ron and Laura Sigura who reside at 1386 Lewiston Drive. Our home is located across from their side yard. Already, there is a tall redwood fence with a lattice top along the public sidewalk enclosing the backyard and part of the side yard. The fence runs along the public sidewalk and then runs back to the end of the front of the house. Now they are requesting a permit to put in a brick and rod iron fence to enclose the remainder of the property which would run around the rest of the yard ending at the driveway in front of the house. We OBJECT to this fence and will NOT sign the petition as all that we will see is a TALL FORTRESS - LIKE FENCE. The proposed addition does NOT fit the character of our neighborhood and it will really impact our view as we will see only fencing. It is also a concern for visibility as we drive into the court. We hope you take these concerns into consideration PRIOR to granting a permit. We would like to be notified in writing of any hearing to be scheduled on this permit.

Thank you for considering our concerns.

Peter Tobias

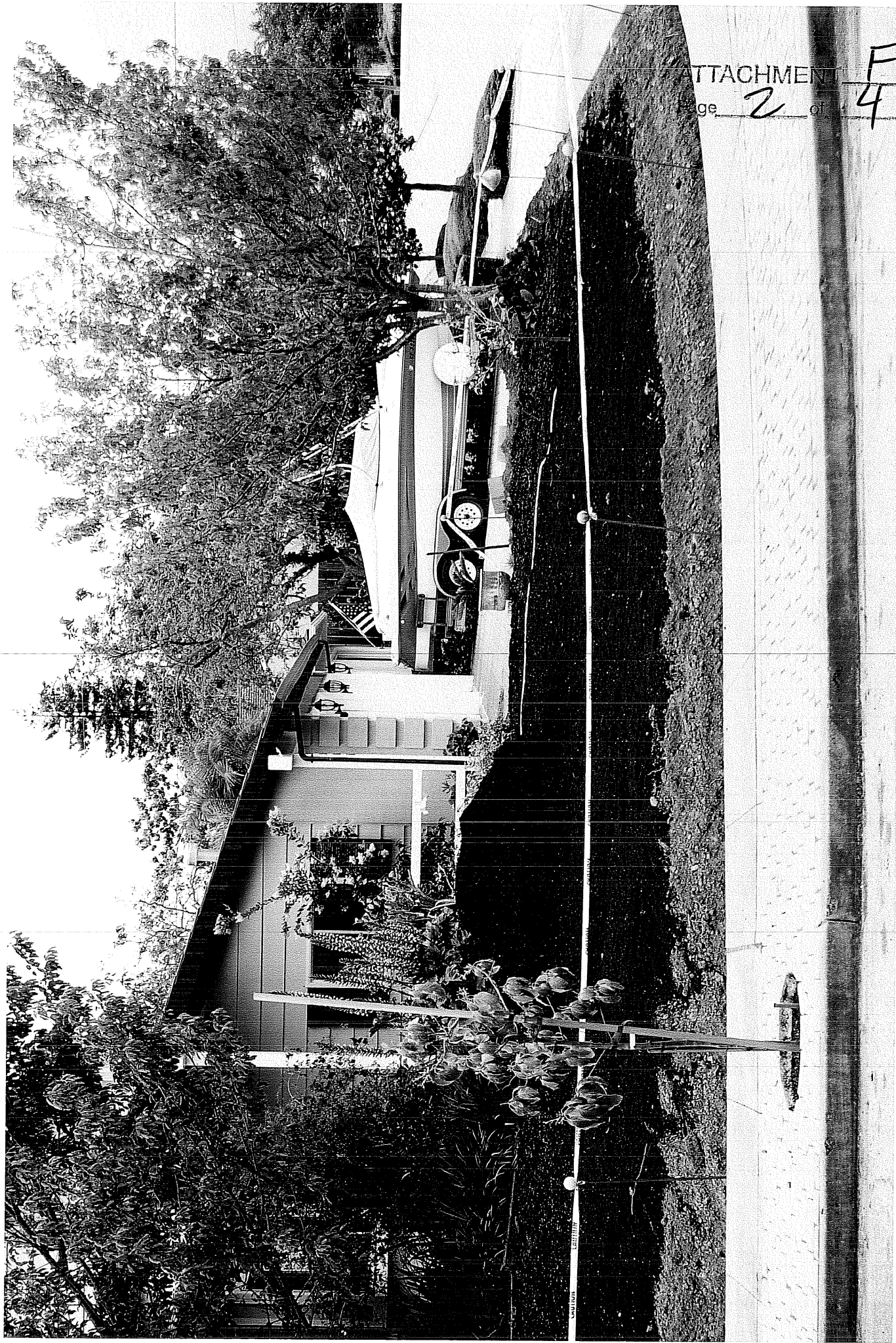
Kathleen Tobias
Peter and Kathleen Tobias

ATTACHMENT

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1386 Lewiston Drive





1386 Lewiston Drive

Home owner: [illegible] (T)



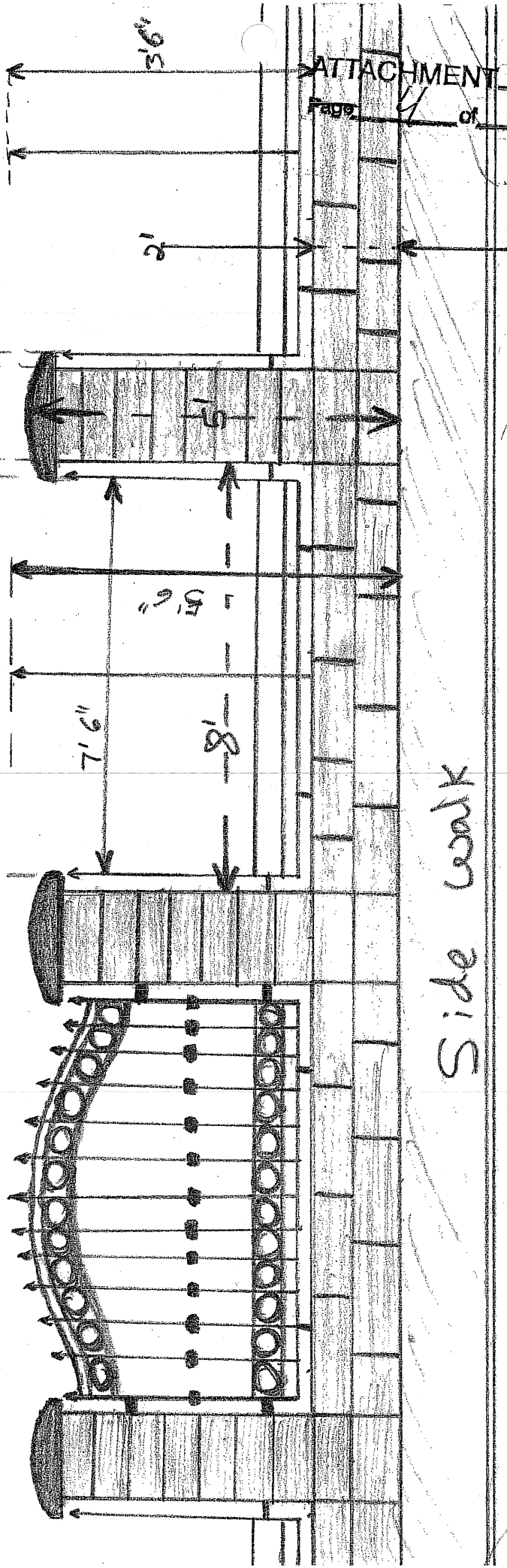
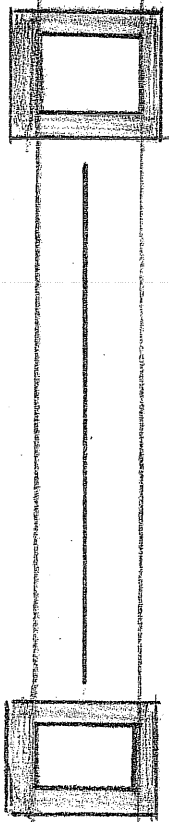
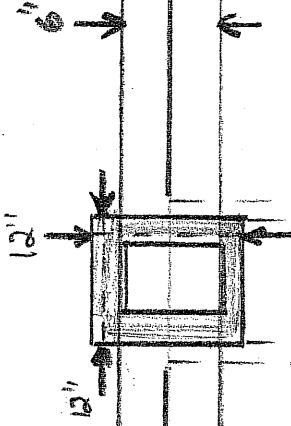
758 Lewiston Ct.
(gray house)

764 Lewiston Ct.
(yellow house)

1386 Lewiston Drive
(tan house)

12006 KENNEDY DRIVE, SERRAVALLE CA. 94087
Ronen & Laura Sigura 408-733-4248

Top View



ATTACHMENT
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Street